

Report title

Occupational Health – Tender for Services

Report to

Date

Commissioner's Board
Deputy Mayor's Fire and Resilience Board
London Fire Commissioner

11 May 2022
24 May 2022

Report classification:

For Decision

The subject matter of this report deals with the following London Fire Commissioner strategic priorities:

The best people and the best place to work

Provision of an Occupational Health Service that enables the London Fire Commissioner (LFC) to seek medical advice regarding how it might best support employees to succeed in the workplace through recommendations of workplace adjustments.

Ensures the organisation can adequately support trainees and existing employees, with a health condition, to succeed in the workplace through recommendations of workplace adjustments.

Contributes to regular health assessments for new and existing LFC employees. This includes relevant health screening for new starters across all staff groups and three yearly routine medicals for Operational staff.

Delivering excellence

Contributes to the delivery of LFC's Wellbeing Strategy through sharing of industry and clinical trends to inform LFC Wellbeing initiatives. Informs LFC Health and Wellbeing related strategies and policies as a clinical subject matter expert.

Produces a management information pack that enables the LFC to review internal health trends and put in place Health and Safety and Wellbeing initiatives to improve staff Wellbeing and reduce future sickness and/or injury.

Delivers Asbestos Surveillance Health checks for Operational staff to ensure that the LFC complies with the Control of Asbestos Regulations 2012.

Report number – LFC-0706y

PART I - NON-CONFIDENTIAL FACTS AND ADVICE TO THE DECISION-MAKER

Executive Summary

The LFC's current contract for Occupational Health Services is due to cease on 4 March 2023, following a two-year agreed extension as set out in LFC-0437y and approved in Deputy Mayor for Fire and Resilience Decision 94.

Following completion of a feasibility study, confirming that a shared Occupational Health Service arrangement with Transport for London (TfL) was not feasible within the next three years, the LFC has commenced an open market procurement exercise to select an Occupational Health Service provider.

Due to budget constraints, the LFC does not intend to increase the Occupational Health Service provision. However, the LFC has and, through mobilisation of a new contract, will continue to utilise the opportunity to fully review the service provision including product volumes required, delivery model, working practices and further develop the management information available.

For the London Fire Commissioner

That the London Fire Commissioner agrees that a contract for the provision of Occupational Health Services be entered into at a cost as set out in Part 2 of the report.

That the London Fire Commissioner delegates authority to the Assistant Director for Procurement and Commercial to award the contract for Occupational Health Services with the winning supplier upon completion of a procurement exercise.

Please see part 2 of the report for further recommendation.

1. Introduction and background

- 1.1. The justification for the LFC providing an Occupational Health Service has been well established in previous reports, most recently the Occupational Health Contract report (LFC-0437y).
- 1.2. The LFC's existing Occupational Health Service contract has been in place since 1 April 2018. The contract has now reached its maximum duration, following an agreed two-year extension as set out in the Occupational Health Contract report (LFC-0437y) and approved in Deputy Mayor for Fire and Resilience Decision 94.
- 1.3. The LFC's current contract for Occupational Health Services is due to cease on 4 March 2023.

Exploring Collaboration

- 1.4. Within the Occupational Health Contract report (LFC-0437y), based on which the two-year extension was granted, the LFC committed to exploring opportunities to collaborate with Transport for London (TfL) on the provision of occupational health services to the LFC.
- 1.5. TfL have an in-house Occupational Health Service managed and delivered by its own employed staff.
- 1.6. Utilising an external consultancy firm, the LFC and TfL completed a feasibility study to ascertain whether collaboration was feasible. The cost of the feasibility study was paid in full by the GLA collaboration board. The feasibility study ran over a period of ten weeks and included many workshops to understand the LFC's requirements for occupational health services and what TfL was able to provide LFC including any implementation and running costs of doing so.
- 1.7. The study concluded that there is a cost saving to be realised by the GLA from TfL providing its occupational health services to LFC in the range of c£27,000 – c£145,000 per annum, on an ongoing basis.
- 1.8. The study identified that significant upfront cost associated with implementing change and integrating functions, this is in the range of c1,607,000 – c£2,250,000. As a result, the payback period could be high subject to realised annual cost savings. Given the lengthy payback period of up to fifteen years, LFC would need to guarantee a long-term partnership with TfL.
- 1.9. Key contributors to the cost of implementation were:
 - Significant work currently being undertaken by both LFC and TfL on their core IT systems,
 - The predicted costs to TUPE staff from the current Occupational Health Service to TfL.
- 1.10. TUPE costs were estimated as the LFC's current occupational health provider is not contractually obliged to share TUPE data with the LFC until twelve months prior to the contract end date.
- 1.11. Whilst the feasibility study outcome confirmed that collaboration was not feasible at this time, the findings suggest that upon completion of key IT projects both by the LFC and TfL that collaboration could be revisited in three years' time.
- 1.12. The LFC and TfL have therefore agreed that upon procuring Occupational Health Services, the LFC will commence a contract with an initial term of three years enabling LFC and TfL to again explore collaboration at this time.
- 1.13. The LFC's Director for Corporate Services was made aware of the feasibility study outcome and committed to ensuring that, where possible, I.T is not a barrier for collaboration.
- 1.14. The LFC has reviewed whether the occupational health products are delivered by occupational health staff at the appropriate clinical level. In completing this exercise, it has been found that products such as new starter health assessments and routine periodic medicals, which equate to circa. two thousand appointments per annum, can be delivered by an Occupational Health technician as opposed to an Occupational Health Nurse. This was also supported by TfL's clinical expertise during the feasibility study.

- 1.15. On average, across the UK an Occupational Health Technician is paid £24,000 per annum whereas an Occupational Health Nurse is paid £36,000. Adjusting the service to an appropriate level clinical resource would reduce potential TUPE costs in the future.
- 1.16. The LFC intend to implement this approach and have included the expected level of clinical resource to be used, per product, in the specification of the invitation to tender. As a result, when the opportunity to collaborate with TfL is reviewed in three years' time, the LFC should have reduced potential TUPE costs.
- 1.17. The LFC will also ensure that the agreed contract with the Occupational Health Service provider will stipulate that TUPE data must be shared with the LFC, upon request, up to two years in advance of the contract end date. This will support more accurate conversations with TfL regarding implementation costs.
- 1.18. 'TfL Feasibility Study - GLA OH Collaboration Executive Summary' (Appendix 1) was presented to the collaboration board in October 2021. The collaboration board accepted the feasibility studies findings.
- 1.19. Whilst supporting the Metropolitan Police with a benchmarking exercise to determine the ongoing viability of their current contract with Optima, discussions regarding collaboration were revisited. At this time, the Metropolitan police confirmed their intentions to extend their contract with Optima to April 2026.
- 1.20. The London Ambulance Service (LAS) has also been identified as an organisation the LFC may collaborate with on Occupational Health Services. The LAS has recently completed its own Occupational Health Tender and is due to award a contract imminently with a contract start date of 30 June 2022. The initial contract term is three years with the opportunity to extend by a further year on two occasions (five years in total).
- 1.21. Whilst it is not possible to consider collaboration at present, the LAS are keen to discuss collaboration and will consider this across NHS, Blue Light and other ambulance services.
- 1.22. At a high level the LFC and LAS products and services requirements are not the same, but, similar enough that it would be reasonable for these to be delivered under one contract. There are some key differences to the delivery model required. For example, LAS medicals require less equipment and can therefore be delivered from a number of hubs, LFC medicals are much more involved and involve equipment that is expensive to purchase and/or not straightforward to move from one site to another.
- 1.23. Practical conversations to explore collaboration would need to commence no later than September 2022. LAS have the OH clinical resource to support these discussions.
- 1.24. Collaboration for a shared Occupational Health service is a complex undertaking and one that is unlikely to be achievable using either the LFC's or LAS's OH and Procurement subject matter experts alone. Therefore, whilst it was agreed discussions would need to start by September 2022, a further feasibility study between LAS and LFC was required to understand the compatibility of the service and the financial benefits to each organisation and wider pan-London budgets.
- 1.25. The feasibility study with TfL was funded, in full, by the GLA collaboration board and cost approximately £150,000. This proved to be a worthwhile exercise because, much like the LAS, at high level the OH services appeared compatible. It was also discussed that if collaboration was

feasible, this would require specialist input on how LFC and LAS work together under the one contract.

- 1.26. LAS have recently increased the size of their Wellbeing Team and now also have a clinical team member supporting the management of the Occupational Health contract. The Head of Wellbeing confirmed the LAS would be sufficiently resourced to begin conversations in six months' time. Within LFC currently, it is one senior manager and two administrators who manage and administrate the Occupational Health Contract and the current OH tender project. The OH project is also supported by 0.8 FTE Project Support Officer who will be responsible for driving the IT integration. It would therefore be a challenge to allocate resource to a further feasibility study in September 2022, at which time LFC will be in the procurement process or mobilisation phase of its new OH Contract.

2. Objectives and expected outcomes

- 2.1. The LFC will continue to have an occupational health service in place, ready to deliver a high-quality service in accordance with the agreed contract service level agreements.
- 2.2. The I.T platforms currently being used by LFC are subject to change due to implementation of the new HR and Payroll system and a move away from the current Attendance Case Management System.
- 2.3. Through internal discussions with I.T regarding process improvements, which included a demonstration of standard 'out of the box' Occupational Health cloud-based platforms, it was agreed the mobilisation period may be reduced to one year.
- 2.4 The specification stipulates that the successful supplier must provide a timeline for mobilisation including an experienced project manager to oversee the implementation. The invitation to tender pack makes clear the contract start date and the deadline for mobilisation.

3. Equality comments

- 3.1 The LFC and the Deputy Mayor for Fire and Resilience are required to have due regard to the Public Sector Equality Duty (section 149 of the Equality Act 2010) when taking decisions. This in broad terms involves understanding the potential impact of policy and decisions on different people, taking this into account and then evidencing how decisions were reached.
- 3.2 It is important to note that consideration of the Public Sector Equality Duty is not a one-off task. The duty must be fulfilled before taking a decision, at the time of taking a decision, and after the decision has been taken.
- 3.3 The protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership (but only in respect of the requirements to have due regard to the need to eliminate discrimination), race (ethnic or national origins, colour or nationality), religion or belief (including lack of belief), sex, and sexual orientation.
- 3.4 The Public Sector Equality Duty requires decision-takers in the exercise of all their functions, to have due regard to the need to:

- eliminate discrimination, harassment and victimisation and other prohibited conduct
- advance equality of opportunity between people who share a relevant protected characteristic and persons who do not share it
- foster good relations between people who share a relevant protected characteristic and persons who do not share it.

- 3.5 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard to the need to:
- remove or minimise disadvantages suffered by persons who share a relevant protected characteristic where those disadvantages are connected to that characteristic
 - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it
 - encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- 3.6 The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.
- 3.7 Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
- tackle prejudice
 - promote understanding.
- 3.8 An equality impact assessment has been completed for the LFC's provision of Occupational Health Services as appended in LFC-0437y. A revised equality impact assessment will be drafted upon selection of the supplier and clarity regarding future service delivery. The revised equality impact assessment will provide detail of locations, accessibility and processes.

4. Other Considerations

Workforce comments

- 4.1 The LFC has an established forum 'Brigade Joint Committee Health, Safety and Welfare' at which matters of Health, Safety and Welfare are discussed. The staff side representative for this forum has been contacted and the Occupational Health provision has been discussed. Whilst the Occupational Health provision is not changing it has been accepted that there is no present need to consult however the project manager has committed to keeping the staff side representative informed of project progression and agreed to do so via the regular project board update emails that are distributed to key stakeholders.
- 4.2 The staff side representative was keen that the LFC continue to explore the opportunity to collaborate with TfL, particularly as this provides the opportunity to deliver what felt to be more of an 'in-house' service rather than outsourced service.
- 4.3 To protect the LFC's establishment numbers and minimising staff's time away from duty when attending Occupational Health, staff side requested that location of the service be revisited. The service is currently provided from a central location in Southwark. The invitation to tender

shall therefore stipulate that at least one location provided centrally however the LFC was open to exploring with the agreed contractor alternative methods for delivering face to face medicals, whilst taking into consideration the cost of delivery.

Sustainability comments

- 4.4 The sustainability impact is positive. Throughout the pandemic, the LFC has learned a great deal about how remote services, such as telephone or video case management appointments can be equally as successful as face-to-face services. This has been evidenced in management information received by the LFC's current occupational health provider. As a result, in the invitation to tender, the LFC has requested a hybrid service which reduces staff requirement to travel to their appointments which in turn also reduces the LFC's travel expense costs associated with staff attendance to Occupational Health appointments.
- 4.5 Additionally, the LFC has asked that any contractor provides a digitalised service for communicating details of appointments, issuing management outcome reports and for storing clinical information.
- 4.6 A sustainability impact assessment has been completed.

Procurement comments

- 4.7 The LFC is conducting an open competition for the Occupational Health Services contract advertising on Find a Tender, allowing all interested parties to view the entire requirement with indicative TUPE information from the incumbent supplier using a one stage process. Providing TUPE information will enable bidders to provide an accurate assessment of the cost to deliver occupational health services. An open competition will maximise access to providers that can offer the full scope of requirements to staff operating in safety critical environments as market research has shown the supplier base that can service the full requirement to be limited.
- 4.8 The occupational health service requirements largely maintain current service levels to align with existing budgets.
- 4.9 The initial three-year contract term together with the flexibility in the extension options will enable GLA collaboration to be re-visited.
- 4.10 Alternative procurement approaches were considered, and two frameworks identified as potential routes to market, Crown Commercial Services RM6182 Occupational Health, Employee Assistance Programmes and Eye Care Services and ESPO Occupational Health Services Framework. Both were reviewed as not viable as they did not fully satisfy the specification, and the pricing model when benchmarked resulted in increased costs.
- 4.11 The procurement timelines were impacted by resource issues within the procurement team and the need for further re-work to the procurement documentation to ensure clarity of the LFC's requirements to the market. A decision was taken to re-commence the procurement process to ensure the contract for the provision of Occupational Health Services will be procured in accordance with the Public Contract Regulations 2015 and the LFC's Scheme of

Governance Part 3 Standing Orders relating to Procurement. This decision has given rise to the recommendation contained in the Part 2 report.

- 4.12 The procurement process will be undertaken in accordance with the Public Contract Regulations (as amended), the LFC's Scheme of Governance and the GLA Group Responsible Procurement Policy.

5 Financial comments

- 5.1 This report seeks approval to procure for the provision of Occupational Health Services. It is anticipated that the new contract growth above the existing contract, and if this growth is not agreed for 2023/24, the LFC will have to seek to reduce the contract provision further. However this would need to be considered alongside the statutory requirements under the Health and Safety at Work Act 1974, as well as the LFC's expectations on supporting the Wellbeing of its staff.
- 5.2 Additional Finance comments are contained in the part 2 report.

6. Legal comments

- 6.1 Under section 9 of the Policing and Crime Act 2017, the LFC is established as a corporation sole with the Mayor appointing the occupant of that office. Under section 327D of the GLA Act 1999, as amended by the Policing and Crime Act 2017, the Mayor may issue to the LFC specific or general directions as to the manner in which the holder of that office is to exercise his or her functions.
- 6.2 By direction dated 1 April 2018, the Mayor set out those matters, for which the LFC would require the prior approval of either the Mayor or the Deputy Mayor for Fire and Resilience (the Deputy Mayor).
- 6.3 Paragraph (b) of Part 2 of the said direction requires the LFC to seek the prior approval of the Deputy Mayor before "[a] commitment to expenditure (capital or revenue) of £150,000 or above as identified in accordance with normal accounting practices...".
- 6.4 The Deputy Mayor's approval is accordingly required for the LFC to award a contract for the provision of Occupational Health Services at a cost of up to ~~£15,546,376~~ up to the amount set out in the Part 2 report.
- 6.5 The statutory basis for the actions proposed in this report is provided by section 7 (2)(a) of the Fire and Rescue Services Act 2004, under which the LFC must secure the provision of personnel, services, and infrastructure necessary to efficiently meet all normal requirements for firefighting.
- 6.6 The General Counsel also notes that the contract for the provision of Occupational Health Services will be procured in accordance with the Public Contract Regulations 2015 and the LFC's Scheme of Governance Part 3 Standing Orders relating to Procurement.
- 6.7 Please note that further legal comments are contained in the Part 2 report.

List of Appendices

Appendix	Title	Open or confidential
1.	TfL Feasibility Study - GLA OH Collaboration Executive Summary	Open

Part 2 Confidentiality: Only the facts or advice considered to be exempt from disclosure under the FOI Act should be in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a part 2 form – Yes